1	BEFORE THE BOARD OF PERSONNEL APPEALS
2	
3	ROBERT MOE,
4	Complainant,
5	vs-) FINAL ORDER
6	
7	
8	
9	
10	A Complaint having been filed in the above-entitled matter by Mr. Robert Moe, member of AFSCME local #1906 shoreing and filed in the above-entitled matter by Mr. Robert
11	Moe, member of AFSCME, Local #1906, charging an unfair labor practice against
12	the officers of the AFSCME Local #1906. A Findings of Fact, Conclusions
13	of Law and Recommended Order having been issued by the duly appointed Hearing
14	Examiner, Donna K. Davis, on August 18, 1976, and no Exceptions having been
15	filed with this Board to the Recommended Order,
16	IT IS ORDERED, that the Findings of Fact, Conclusions of Law and Recommend
17	Order of the Hearing Examiner be adopted as the Final Order of the Board.
18	Dated this 14th day of April, 1977.
19	BOARD OF DERSONNEL APPEALS
20	BY Town Comley
21	Brent Cromley Chairman
22	CERTIFICATE OF MAILING
23	I, Trenna Scoffield, hereby certify and state that I did on the day of April, 1977, mail a true and correct copy of the FINAL ORDER to the
24	
25	John Verbanac President
26	AFSCME Local #1906 P. O. Box 210
27	East Helena, Mt 59635
28	William F. Enright 528 N. Warren
	Helena, Mt 59601
29	Robert Moe 3102 Terrace Ave.
30	Helena, Mt 59601
31	George Hammond AFSCME
32	600 N. Cooke
	Helena, Mt 59601

THURBER'S HELENA Trans Scoffield Trenna Scoffield

led

BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF ULP #18 (1976)
ROBERT MOE,

Complainant,

Vs.

)

FINDING OF FACT, CONCLUSION OF LAW, AND RECOMMENDED ORDER.

OFFICERS OF AFSCME LOCAL #1906,

Respondents.

* * * * * * * * * * * * * * * * * *

Mr. Robert Moe, complainant, member of AFSCME Local #1906, filed with the Board of Personnel Appeals an unfair labor practice charge against Officers of AFSCME Local #1906 on July 7, 1976.

A hearing regarding the charge was held on August 10, 1976, conducted by Gaillard Rembert, who subsequently disqualified himself. Substituted as hearing examiner was Ms. Donna K. Davis, who makes the following finding of fact, conclusion of law, and recommended order.

FINDING OF FACT

Complainant and Respondents acknowledged that, before petitioning the board for relief, the complainant had not utilized the grievance procedure internal to the union to attempt to resolve the difficulties and problems which formed the basis of the complaint.

CONCLUSION OF LAW

Because the complainant has not yet exhausted the remedies available to him within the union as set forth in the Constitution of the American Federation of State, County and Municipal Employees, the Board of Personnel Appeals declines to assume jurisdiction in this matter.

RECOMMENDED ORDER

The unfair labor practice charge filed by Mr. Robert Moe is hereby dismissed without prejudice. Mr. Moe is directed to

9

11

1

2

3

4

5

6

8

12

14

15

16

17

18

19 20

21

22

23

24

25

26 27

28

29

30

31

1 carry his grievance through the appropriate channels within the union structure. If, after such action is taken, the complainant 3 yet feels aggrieved, he may again petition this board for a hearing.

CAVEAT

Testimony offered by Mr. John Verbanac, President of AFSCME Local #1906, revealed that the procedures employed by the officers of the local to conduct elections do not meet standards set by law. Section 59-1603(4) states: "Certification as an exclusive representative shall be extended or continued as the case may be only to a labor or employee organization the written by-laws of which provide for and guarantee the following rights and safeguards and whose practices conform to such rights and safeguards as: provisions are made for democratic organization and procedures; elections are conducted pursuant to adequate standards and safeguards; controls are provided for the regulation of officers and agents having fiduciary responsibility to the organization;..." Because Complainant's charges did not encompass the admitted flagrant abuse of the rights and safeguards guaranteed by statute, the board did not rule on the matter. However, this board is alarmed by such abuse and encourages the local to remedy the situation immediately. Dated August 18, 1976.

BOARD OF PERSONNEL APPEALS

Hearing Examiner

29 30

4

6

7

11

13

14

15

16

17

18

23

24

25

26

27

28

31

32